

REMARKS

Supplemental to the Amendment filed on October 15, 2009 in response to the official action mailed July 15, 2009, Applicants submit herewith arguments in response to the provisional nonstatutory obviousness-type double patenting rejection set forth in the official action mailed July 15, 2009.

Specifically, the Examiner has rejected claims 1, 6-13, 23, 25-35 and 37-46 on the ground on nonstatutory obviousness-type double patenting as being unpatentable over (1) claims 1-35 of copending Application No. 10/982,925; (2) claims 1-16 and 19-21 of copending Application No. 10/508,007; (3) claims 60-116 of copending Application No. 10/591,583; and (4) claims 1-59 of copending Application No. 10/573,579. Applicants respectfully traverse.

Applicants respectfully submit that Application No. 10/508,007 has been abandoned and that according to USPTO's PAIR, the notice of abandonment was mailed out to Applicants on September 8, 2009. Accordingly, the provisional nonstatutory obviousness-type double patenting rejection based on Application No. 10/508,007 is now moot and it is respectfully submitted the rejection be withdrawn.

With respect to other copending Application Nos. 10/982,925, 10/591,583, and 10/573,579, because the Amendment filed October 15, 2009 overcome all of the other rejections, it is also respectfully submitted that such rejection be withdrawn since the present application is an "earlier filed" application with respect to all of the above-mentioned co-pending applications. As stated in the M.P.E.P.:

If a provisional nonstatutory obviousness-type double patenting rejection is the only rejection remaining in the earlier filed of the two pending applications . . . the Examiner should withdraw that rejection and

permit the earlier filed application to issue
as a patent without a terminal disclaimer.

M.P.E.P. § 804 I.B.1.

For all of the reasons advanced above, along with the amendments, arguments and remarks filed on October 15, 2009, favorable reconsideration and allowance of all claims in the application as currently amended in our Amendment of October 15, 2009 are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 22, 2009

Respectfully submitted,
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